

Minutes

Bar Harbor Town Council

May 20, 2008

- I. **CALL TO ORDER** – 7:00 P.M. – In attendance were Councilors: Ruth Eveland, Robert Garland, Paul Paradis, Julia Schloss, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.
- A. **Excused Absence(s)** – Mr. Paradis, with second by Ms. Schloss, moved to excuse Ken Smith as provided by Town Charter section C-12.B(1)(d). Motion passed 6-0.
- II. **APPROVAL OF MINUTES**
- A. **May 6, 2008 – Special Meeting** – Mr. Paradis, with second by Ms. Schloss, moved to approve the minute of the May 6, 2008 special meeting as presented. Motion passed 6-0.
- B. **May 6, 2008 – Regular Meeting** – Mr. Paradis, with second by Ms. Schloss, moved to clarify the motion on May 6, 2008 item VI(J) to reflect an extension of the appointments until June 30, 2009 of all current Economic Development Task Force and Cruise Ship Study Task Force members. Motion passed 6-0. Mr. Paradis, with second by Ms. Schloss, moved to approve the minutes of the May 6, 2008 regular meeting as amended. Motion passed 6-0.
- III. **ADOPTION OF AGENDA** – Mr. Paradis, with second by Mr. Veilleux, moved to adopt the agenda as presented with the exception of removing item VI(L). Motion passed 6-0.
- IV. **FINANCIAL STATEMENTS** – Mr. Paradis, with second by Ms. Schloss, moved to accept and file the April 30, 2008 financial statements as presented in the Finance Director's memo dated May 5, 2008. Motion passed 6-0.
- V. **PUBLIC HEARINGS:**
- A. **Town Meeting: June 2008** – *Public hearing on ballot articles.*
1. Article 2 *Land Use Ordinance Amendment – Wireless Communication Facilities, an Amendment to add regulations for wireless communication facilities.*
 2. Article 3 *Land Use Ordinance Amendment – Appeals Board Procedures, an amendment to update and amend the administration and review of variances, administrative appeals and reconsideration requests.*
 3. Article 4 *Land Use Ordinance Amendment - Groundwater Protection, an amendment to update and change the requirements pertaining to the protection of groundwater.*

4. *Article 5 Land Use Ordinance Amendment - Planning Board Review of Non-Conformities, an amendment to add a process for Planning Board review of non-conforming situations.*

Upon opening the public hearing and reading the articles, there were no comments from the public.

B. Special Amusement Permits:

1. **Bar Harbor Tennis Club, 111 West Street** – *Request of Mark Walsh for a Class 3ad permit, three or more musicians with mechanical amplification and dancing. (Renewal).* – Neighbor Elizabeth Hodder questioned if the permit request included the new pool house. There was no representative present to answer questions. The Town Clerk left the room to retrieve the original application and a copy of their renewed liquor license. Mr. Paradis, with second by Ms. Schloss, moved to table this item to item V(4) on this agenda. Motion passed 6-0. Following the review of the application and liquor license, Mr. Paradis, with second by Mr. Veilleux, moved to table this item until the June 11, 2008 meeting. Motion passed 6-0.
2. **Carmen Verandah, 119 Main Street** – *Request of Lance C. Heaton for a Class 3ad, three or more musicians with mechanical amplification and dancing. (New owner)* – There being no comments, Mr. Paradis, with second by Mr. Veilleux, moved to approve the special amusement permit for Carmen Verandah as requested. Motion passed 6-0.
3. **The Atlantic Oakes** – *Request of David Witham for a Class 3ad, three or more musicians with mechanical amplification and dancing. (New owner)* – There being no comments, Mr. Paradis, with second by Mr. Veilleux, moved to approve the special amusement permit for the Atlantic Oakes as requested. Motion passed 6-0.

VI. REGULAR BUSINESS:

- A. **Bus License Renewal: National Park Tours and Transport Inc.** - *Request of Andrew Cough for three bus license renewals. Approved by Police Chief and proof of insurance provided.* – Mr. Jordan disclosed his employment relationship with the applicant. Mr. Paradis, with second by Ms. Schloss, moved to recuse Mr. Jordan due to his employment with the applicant. Motion passed 5-0-1 (Recused: Mr. Jordan). Mr. Paradis, with second by Mr. Veilleux, moved to approve a bus license renewal for National Park Tours and Transportation, Inc. as requested. Motion passed 5-0-1 (Recused: Mr. Jordan).
- B. **Economic Development Task Force** – *Possible appointment of Karen Baksa as resident business owner on Route 3, outside of downtown.* – Mr. Paradis nominated Karen Baksa to the Economic Development Task Force for a seat reserved for a resident business owner on Route 3, outside of the

downtown. There were no further nominations. Council unanimously appointed Ms. Baksa.

- C. Iran War Resolution** – *MDI Peace & Justice petition for Council to schedule a special town meeting to consider a resolution opposing the invasion of Iran.* – Councilor Veilleux disclosed that his mother-in-law is one of the organizers. Mr. Paradis, with second by Ms. Schloss, moved to recuse Mr. Veilleux due to his mother-in-law being one of the organizers of this petition. Motion passed 5-0-1 (Recused: Mr. Veilleux). Mr. Jordan disclosed that he signed the petition. Mr. Paradis, with second by Ms. Schloss, moved to recuse Mr. Jordan due to his signing of the petition. Motion passed 4-0-2 (Recused: Mr. Jordan, Mr. Veilleux). Following Council comments as to their role and authority, and reading from the Charter as to the authority of Town Meeting, the petition calling for a special town meeting to adopt a resolution opposing the invasion of Iran did not fit the criteria. Mr. Paradis, with second by Ms. Schloss, moved to take no action on this item. Motion passed 4-0-2 (Recused: Mr. Jordan, Mr. Veilleux).

- D. Board & Committee Consultation: Marine Resources Committee** – *Discussion of current projects, future plans and any support needed from Town Council* – Marine Resources Committee members Jane Disney, Chris Petersen, and Brad Haskell reported on their recent projects; Eelgrass Restoration, Clam Survey, Healthy Beaches, and Mussel Harvesting. In the future, the committee will bring forward to the Council two items requesting their support. In light of recent State legislation managing mussel harvesting, the committee will request the Town Council's support for a local ordinance. Also, as a part of a grant, they must provide information to the public and will seek permission to place a kiosk at Hadley Point displaying their three projects: Healthy Beaches, Clam Survey, and Eelgrass Restoration. Council thanked the committee for the report and the work that they have accomplished.

- E. FY08 Budget Adjustments** – *Possible adjustment of appropriation accounts:*

- 1. Town Hill Playground** – *Request of the Parks & Recreation Committee for a transfer of funds to the Town Hill Village Improvement Society for construction of the new playground.* – Following discussion, Ms. Schloss, with second by Mr. Veilleux, moved to authorize an appropriation transfer of \$11,877 from the Barker Park Construction account, 2159-6304, to a new capital account for the Town Hill Playground. Discussion ensued, Mr. Paradis, with second by Mr. Jordan, moved to move the question. Motion failed 3-3 (Nay: Ms. Eveland, Mr. Garland, Mr. Veilleux.). The main motion passed by a vote of 4-2 (Nay: Mr. Jordan, Mr. Paradis).
- 2. Winter Maintenance** – *Request of the Town Manager for adjustment of the snow removal budget.* – Mr. Paradis, with second by Ms.

Schloss, moved that the Town Council hereby approves overdraft spending of up to 15% (\$134,192) of the Fiscal Year 2008 Highway Division appropriation to allow for the repair and maintenance of Bar Harbor's roads due to the severe winter weather. Motion passed 6-0.

- F. Safe Routes to School** – *Request of the Town Manager for authorization to apply for an MDOT Safe Routes to School Grant for replacement of sidewalks on the north side of Mount Desert Street from Holland Avenue to Kennebec Street.* – Following a brief discussion, Mr. Paradis, with second by Mr. Veilleux, moved to authorize the Town Manager to apply for an MDOT Safe Routes to School Grant for replacement of sidewalks on the north side of Mount Desert Street from Holland Avenue to Kennebec Street, and/or for a ramp and bump-in from the crosswalk up to the school, at his discretion, contingent upon direction received from MDOT staff on which project they would like to fund. Motion passed 6-0.
- G. Eden Street Sidewalk** – *Request of the Town Manager for authorization to apply for an MDOT Enhancement Grant for replacement of sidewalks on the easterly side of Eden Street from Harbor Lane to the north end of Highbrook Road.* – Mr. Paradis, with second by Mr. Veilleux, moved to authorize the Town Manager to apply for an MDOT Enhancement Grant for replacement of sidewalks on the easterly side of Eden Street from Harbor Lane to the north end of Highbrook Road or, if MDOT finds another funding mechanism for this project, for the Lower Main Street project. Motion passed 6-0.
- H. June 10 State Primary** – *Request of the Town Manager that Council confirm the appointment of Patricia Gray as election Warden.* – Mr. Jordan, with second by Mr. Veilleux, moved to confirm the appointment of Patricia Gray as election Warden for the June 10 Primary Election. Motion passed 6-0.
- I. Audits of FY08 & FY09** – *Possible appointment of an auditor for the current and next fiscal years.* – Mr. Paradis, with second by Mr. Veilleux, moved to accept the May 7, 2008 proposal from the firm of James W. Wadman, CPA, to perform the audits for the fiscal years ending June 30, 2008 in the amount of \$13,130 and for June 30, 2009, in the amount of \$13,460. Motion passed 6-0.
- J. Cruise Ship Study Task Force** – *Recommendations:*
- 1. Bus Stop** – *To permit returning tour buses to disembark passengers on the south side of Newport Drive.* – Following discussion, Mr. Paradis, with second by Mr. Jordan, moved to permit returning tour buses to disembark passengers on the south side of Newport Drive between Main Street and the parking area across from the pergola. Motion passed 6-0.
 - 2. Downtown Shuttle Bus** – *That the Town approach the Island Explorer about the feasibility of implementing a downtown shuttle bus*

that would include the Town Pier as a stop. – Mr. Paradis, with second by Mr. Veilleux, moved to direct the Town Manager to approach the Island Explorer about the feasibility of implementing a down-town shuttle bus that would include the Town Pier as a stop. Motion passed 6-0.

- K. Training** – *Report of the Planning Director on a recently attended planning seminar. – Planning Director Anne Krieg gave a summary of her training, the sessions she attended and how some of the sessions related to Bar Harbor projects.*
- L. Town Charter** – *Request of Councilor Paradis for discussion of the desirability of reducing the members of the Town Council from seven to five. - (Agenda was amended to remove this item and place on a future Council meeting.)*
- M. School Reorganization** – *Status report by Council's representative to the Reorganization Planning Committee, Councilor Bob Garland. – Councilor Garland reported that they are addressing issues to prepare another plan for submittal to the Department of Education. The plan will continue to provide "business as usual" to the greatest extent allowed by state regulations.*
- N. Quitclaim Deed** – *Request of the Town Manager for authorization to sign a quitclaim deed to clarify title to property at 49 Park Street, Tax Map # 107-131-000 which the Town sold in 1964. – Mr. Paradis, with second by Mr. Veilleux, moved to authorize the Town Manager to sign a quitclaim deed to clarify title to property at 49 Park Street, Tax Map 107-131-000 which the Town sold in 1964. Motion passed 6-0.*
- O. Maine Municipal Association** – *MMA request for candidates for:*
- 1. Legislative Policy Committee.*
 - 2. Executive Committee*
 - 3. MMA Vice President*
- No action was taken.*
- P. Freedom of Access Act** – *Discussion of new training requirements for all Councilors, School Board and Warrant Committee members. – Following a brief discussion, Mr. Paradis, with second by Mr. Veilleux, moved that Freedom of Access Act training records be kept by the Town Clerk's office for the Town Council and Warrant Committee, and by the School staff for the School Committee and High School Trustees. Motion passed 6-0.*
- Q. Marguerite Giles Scholarship** – *Possible award of scholarship. - Mr. Paradis, with second by Mr. Garland, moved to endorse the recommendation of the MDI High School Scholarship Committee for the Marguerite Giles Scholarship. Motion passed 6-0.*

R. Ethics Ordinance

- 1. Report of the Town Attorney*

2. *Request of the Town Manager for several changes to resolve ambiguous or conflicting language.* – Mr. Paradis, with second by Mr. Veilleux, moved to endorse the Town Manager's changes as presented and direct him to prepare an appropriate ordinance for introduction at the next Town Council meeting. Motion passed 6-0.

S. Treasurer's Warrant – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Ms. Schloss, moved to sign the Treasurer's Warrant for paid bills. Motion passed 6-0.

VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Mr. Jordan expressed his disappointment in his fellow Councilors for their action not to honor the Iran War Resolution petitioner's request for a special town meeting.

Mr. Veilleux thanked the Marine Resources Committee and the other committees that have come before the Council and acknowledged the great work they do.

Ms. Schloss reported that the (economic development) Stakeholder's Committee held a coffee for those with home occupations, and while it was a small turn out, those who did attend were enthusiastic about having an opportunity to network.

She also mentioned the \$485,000 homeland security harbor grant awarded to the Town of Bar Harbor. Staff cautioned that they had received only verbal notice of the grant award and that it would be mid-June before formal notice should be expected. Therefore, at this time, the specifics of the award are unclear.

Mr. Garland reported that the town line signage replaced by the MDOT at the construction site at Babson's Creek appears to be reversed. When entering into Bar Harbor, it says Mount Desert.

Mr. Paradis responded to an earlier comment on how cruise ships impact the municipal fund. He suggested that all one has to do is look at the budget document.

His response to Councilor Jordan's Council comment about the Iran War Resolution petitioner's request was that Council must sometimes do unpopular things because we are bound by the Charter.

He also noted the article in the Bangor Daily News about the \$485,000 grant and said he looks forward to learning the specifics.

Ms. Eveland attended a presentation by Peter Lord on 'dark skies'. She requested the next agenda include discussion of approaching Bangor Hydro for a rate reduction if lighting is reduced.

She referenced a letter Council received from John Frary of Farmington who is running for US Congress as a write-in.

VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

- A. Land Acquisition or Disposal** – *Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as*

permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.) – Mr. Paradis, with second by Mr. Veilleux, moved at 9:41 p.m. to go into executive session, following a nine minute break, as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 6-0. Council entered in executive session at 9:50 p.m. Council came out of executive session at 9:52 p.m.

(Items B and C were taken out of order.)

- B. Personnel Matter** – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* – Mr. Paradis, with second by Mr. Veilleux, moved at 10:12 p.m. to go into executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 6-0. Council came out of executive session at 10:43 p.m.
- C. Land Acquisition or Disposal** – *Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.)* – Mr. Paradis, with second by Mr. Veilleux, moved at 9:53 p.m. to go into executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 6-0. Council came out of executive session at 10:11 p.m. Mr. Paradis, with second by Ms. Schloss, moved to decline to meet with Ms. Hodder and her legal counsel and direct the Town Manager and Town legal counsel to do so to discuss the Bridge Street taking. Motion passed 6-0.
- D. Town Manager's Performance Evaluation Process** – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* – Mr. Paradis, with second by Mr. Veilleux, moved at 10:44 p.m. to go into executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 6-0. Council came out of executive session at 10:50 p.m.
- IX. ADJOURNMENT** – Mr. Paradis, with second by Mr. Veilleux, moved to adjourn at 10:50 p.m. Motion passed 6-0.

Paul Paradis, Secretary